

## **SEC. 114. TECHNICAL AND CONFORMING AMENDMENTS.**

### **(a) AMENDMENTS RELATED TO QUALIFICATION REQUIREMENTS.—**

(1) Section 401(a)(29) of the Internal Revenue Code of 1986 is amended to read as follows:

“(29) **BENEFIT LIMITATIONS ON PLANS IN AT-RISK STATUS.**— In the case of a defined benefit plan (other than a multiemployer plan) to which the requirements of section 412 apply, the trust of which the plan is a part shall not constitute a qualified trust under this subsection unless the plan meets the requirements of section 436.”.

(2) Section 401(a)(32) of such Code is amended—

(A) in subparagraph (A), by striking “412(m)(5)” each place it appears and inserting “section 430(j)(4)”, and

(B) in subparagraph (C), by striking “section 412(m)” and inserting “section 430(j)”.

(3) Section 401(a)(33) of such Code is amended—

(A) in subparagraph (B)(i), by striking “funded current liability percentage (within the meaning of section 412(l)(8))” and inserting “funding target attainment percentage (as defined in section 430(d)(2))”,

(B) in subparagraph (B)(iii), by striking “subsection 412(c)(8)” and inserting “section 412(c)(2)”, and

(C) in subparagraph (D), by striking “section 412(c)(11) (without regard to subparagraph (B) thereof)” and inserting “section 412(b)(2) (without regard to subparagraph (B) thereof)”.

### **(b) VESTING RULES.—Section 411 of such Code is amended—**

(1) by striking “section 412(c)(8)” in subsection (a)(3)(C) and inserting “section 412(c)(2)”,

(2) in subsection (b)(1)(F)—

(A) by striking “paragraphs (2) and (3) of section 412(i)” in clause (ii) and inserting “subparagraphs (B) and (C) of section 412(e)(3)”, and (B) by striking “paragraphs (4), (5), and (6) of section 412(i)” and inserting “subparagraphs (D), (E), and (F) of section 412(e)(3)”, and

(3) by striking “section 412(c)(8)” in subsection (d)(6)(A) and inserting “section 412(e)(2)”.

(c) MERGERS AND CONSOLIDATIONS OF PLANS.—

Subclause (I) of section 414(l)(2)(B)(i) of such Code is amended to read as follows:

“(I) the amount determined under section 431(c)(6)(A)(i) in the case of a multiemployer plan (and the sum of the funding shortfall and target normal cost determined under section 430 in the case of any other plan), over”.

(d) TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.—

(1) Section 420(e)(2) of such Code is amended to read as follows:

“(2) EXCESS PENSION ASSETS.—The term ‘excess pension assets’ means the excess (if any) of—

“(A) the lesser of—

“(i) the fair market value of the plan’s assets (reduced by the prefunding balance and funding standard carryover balance determined under section 430(f)), or

“(ii) the value of plan assets as determined under section 430(g)(3) after reduction under section 430(f), over

“(B) 125 percent of the sum of the funding ~~target shortfall~~<sup>1</sup> and the target normal cost determined under section 430 for such plan year.”.

(2) Section 420(e)(4) of such Code is amended to read as follows:

“(4) COORDINATION WITH SECTION 430.—In the case of a qualified transfer, any assets so transferred shall not, for purposes of this section and section 430, be treated as assets in the plan.”.

(e) EXCISE TAXES.—

(1) IN GENERAL.—Subsections (a) and (b) of section 4971 of such Code are amended to read as follows:

“(a) INITIAL TAX.—If at any time during any taxable year an employer maintains a plan to which section 412 applies, there is hereby imposed for the taxable year a tax equal to—

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<sup>1</sup> Change made by PL 110-28, Section 6612, signed into law on May 27, 2007. The amendments made by this section shall take effect as if included in the provisions of the Pension Protection Act of 2006 to which they relate.

“(1) in the case of a single-employer plan, 10 percent of the aggregate unpaid minimum required contributions for all plan years remaining unpaid as of the end of any plan year ending with or within the taxable year, and

“(2) in the case of a multiemployer plan, 5 percent of the accumulated funding deficiency determined under section 431 as of the end of any plan year ending with or within the taxable year.

“(b) ADDITIONAL TAX.—If—

“(1) a tax is imposed under subsection (a)(1) on any unpaid required minimum contribution and such amount remains unpaid as of the close of the taxable period, or

“(2) a tax is imposed under subsection (a)(2) on any accumulated funding deficiency and the accumulated funding deficiency is not corrected within the taxable period, there is hereby imposed a tax equal to 100 percent of the unpaid minimum required contribution or accumulated funding deficiency, whichever is applicable, to the extent not so paid or corrected.”.

(2) Section 4971(c) of such Code is amended—

(A) by striking “the last two sentences of section 412(a)” in paragraph (1) and inserting “section 431”, and

(B) by adding at the end the following new paragraph:

“(4) UNPAID MINIMUM REQUIRED CONTRIBUTION.—

“(A) IN GENERAL.—The term ‘unpaid minimum required contribution’ means, with respect to any plan year, any minimum required contribution under section 430 for the plan year which is not paid on or before the due date (as determined under section 430(j)(1)) for the plan year.

“(B) ORDERING RULE.—Any payment to or under a plan for any plan year shall be allocated first to unpaid minimum required contributions for all preceding plan years on a first-in, first-out basis and then to the minimum required contribution under section 430 for the plan year.”.

(3) Section 4971(e)(1) of such Code is amended by striking “section 412(b)(3)(A)” and inserting “section 412(a)(1)(A)”.

(4) Section 4971(f)(1) of such Code is amended—

(A) by striking “section 412(m)(5)” and inserting “section 430(j)(4)”, and (B) by striking “section 412(m)” and inserting “section 430(j)”.

(5) Section 4972(c)(7) of such Code is amended by striking “except to the extent that such contributions exceed the full-funding limitation (as defined in section 412(c)(7), determined without regard to subparagraph (A)(i)(I) thereof)” and inserting “except, in the case of a multiemployer plan, to the extent that such contributions exceed the full-funding limitation (as defined in section 431(c)(6))”.

(f) REPORTING REQUIREMENTS.—Section 6059(b) of such Code is amended—

(1) by striking “the accumulated funding deficiency (as defined in section 412(a))” in paragraph (2) and inserting “the minimum required contribution determined under section 430, or the accumulated funding deficiency determined under section 431,”, and

(2) by striking paragraph (3)(B) and inserting:

“(B) the requirements for reasonable actuarial assumptions under section 430(h)(1) or 431(c)(3), whichever are applicable, have been complied with.”.